

JACQUELYN BURRELL

FILED 6-26-19

GARY L. HARRISON

CLERK, SUPERIOR COURT

ARIZONA SUPERIOR COURT, PIMA COUNTY

19 JUN 26 AM 11:13

Lola Wilkerson

Name of Petitioner/Plaintiff

Barbara Lawall, Victoria Otto

Case Number:

C20193114

Chris Mangus

Name of Respondent/Defendant

STATE OF ARIZONA)
COUNTY OF PIMA) ss.

Notice. A Fee Deferral is only a temporary postponement of the payment of the fees due. You may be required to make payments depending on your income. A Fee Waiver is usually permanent unless your financial circumstances change during the pendency of this court action.

I have requested a deferral or waiver of the following fees in my case:

Fees for service of process by a sheriff, marshal, constable, or law enforcement agency: In support of my request, I state that (check and complete any that apply):

I have attempted to obtain voluntary acceptance of service of process without success on the person to be served.
 It would be useless or dangerous for me to try to obtain voluntary acceptance of service by the person to be served because (explain):

An enforceable injunction against harassment has been granted to me against the person to be served.
 Fees for publication: In support of my request, I state that I have attempted to locate the person to be served but I have been unable to locate that person (check and complete any that apply):

This is what I did to try to find the other party (explain):

I have contacted the person(s) listed below to try to find the location of the other party.

NAME ADDRESS

OATH OR AFFIRMATION

I declare under penalty of perjury that the foregoing is true and correct.

Date: JUN 19 2019



Signature



Applicant's Printed Name

INFORMATION FOR SERVICE

You must provide the following information: To the best of my knowledge, as of (date) 6/18/19, the last known address of the person to be served as: Barbara Lawall and Victoria Otto
32 W. Stone Ave, Tucson, AZ 85701, Chris Mangus 2705 Stone Ave.
Tucson, AZ 85701

Person Filing: Lola Wilkerson
 Address (if not protected): 4608 E. Lester St.
 City, State, Zip Code: Tucson, AZ 85712
 Telephone: (520) 365-7967
 Email Address: lolawilkerson1881@gmail.com
 Representing Self or Attorney for _____
 Lawyer's Bar Number: _____

FILED
 GARY L. HARRISON
 CLERK, SUPERIOR COURT
 6-26-19
 19 JUN 26 AMH:15
 JACQUELYN BURRELL
 BY *Gary L. Harrison*

**SUPERIOR COURT OF ARIZONA
 IN Pima COUNTY**

Lola Wilkerson

Case Number: **C20193114**

Name of Plaintiff

Barbara LaWath,
 Victoria Otto,
 Chris Mangus

Title: CIVIL COMPLAINT

Fraudulent use of government
 Resources, and Violation of
 Constitutional Rights

Name of Defendant

Plaintiff hereby submits this complaint against Defendant(s) and alleges the following:

JURISDICTION and VENUE

D. Douglas Metcalf

1. The Superior Court in Pima County has the legal authority to hear and decide this case because: *(Check all boxes that are true.)*

The value of this case exceeds \$10,000 dollars.

Replevin or other nonmonetary remedy will take place in _____ County.

The Plaintiff resides in Pima County.

The Defendant resides in Pima County.

The Defendant does business in Pima County.

JL
K

Case Number: _____

The events, actions, or debts subject of this Complaint occurred in Pima County.

Other reason: _____

DISCOVERY TIER

2. Pursuant to Arizona Rules of Civil Procedure, Rule 26.2 (c) (3), the Court should assign my case to the following tier based on the amount of damages I request.

Tier 1 = Actions claiming \$50,000 or less in damages.

Tier 2 = Actions claiming more than \$50,000 and less than \$300,000 in damages,

OR Actions claiming nonmonetary relief.

Tier 3 = Actions claiming \$300,000 or more in damages.

PARTIES

3. The Plaintiff in this case is:

Lola Wilkerson

4. The Defendant in this case is:

Barbara LaWall, Victoria Otto, Cheis Mangus

STATEMENT OF FACTS AND BREACH

5. Barbara LaWall and Victoria Otto as prosecutors for Pima County applied statute 13-107 as applied in 1993 to Case # 1809070332 on Oct, 10th 2018, the statute can not be substantiated by the state according to Professional Standards Complaint # 17-0203, on May 19, 2019.

Case Number: _____

6. Chris Mangus, as chief of police is responsible for officers conduct, and/or any fraudulent statements, reports or actions committed against citizens. The fraudulent use of power or authority that violates the 14th Amendment, "nor deny equal protection under the law"; section 1 Rev. 1992.
7. Barbara Lowell, Victoria Otto, Chris mangus violated Lola Wilkerson's 14th Amendment Right section 1 (Rev. 1992).
- 8.

9.

10.

(If you need more space, add an attachment labeled "Statement of Facts and Breach," and continue consecutive numbering.)

APPLICABLE LAW SUPPORTING CLAIMS

- (1) By the state applying 13-107, they legally obligated to substantiate statute and they are not able to do so.
- (2) Violations of 14th amendment, section 1 Rev. 1992.

()

Case Number: _____

() _____

() _____

() _____

() _____

(If you need more space, add an attachment labeled "Applicable Laws Supporting Claims," and continue consecutive numbering)

INJURIES

- (1) Lola Wilkerson was forced to continue residing with her Rapist
- (2) Refusal of medical care, victim advocate, Counseling resources, protection by law enforcement denied.
- (3) Lola Wilkerson developed PTSD and anxiety disorders as a result of actions this is a life long condition.
- (4) Due to mental health deterioration, Lola Wilkerson was not able to mother her 3 children and lost Custodial Rights.
- (5) Due to mental health deterioration, Lola Wilkerson has been homeless and living

(If you need more space, add an attachment labeled "Injuries," and continue consecutive numbering.)

BEST COPY

Injuries Continued

- 5.) homeless on 3 occasions over last 25 years.
- 6.) due to her mental conditions. Lola Wilkerson attempted suicide several times in the past 25 years.
- 7.) due to the retraumatization of this case. Lola Wilkerson has been unable to work or support herself since Aug. 23, 2018.

Case Number: _____

DEMAND FOR RELIEF

WHEREFORE, Plaintiff demands judgment against defendant(s), and each of them (if applicable) for the following dollars, interest, costs, and expenses incurred herein, or non-monetary remedy, including reasonable attorneys' fees, and for such other and further relief as the Court may deem just and proper.

- (1) Seeks further relief that all medical/mental treatment associated with PTSD or anxiety will be paid for by the defendants, for the rest of her natural life.
- (2) That the statute of limitations be removed, tort law applied to reflect the fact that it only found out it was a crime in 2018.
- (3) That all monetary awards will be paid within 90 days, or penalties and fees will be applied.
- (4) That all monetary awards are to be tax free exempt.
- (5) All legal fees will be paid by defendants.

(If you need more space, add an attachment labeled "Demand for Relief," and continue consecutive numbering.)

Dated this 6/26/19
(Date of signature)

Lola Wulffson
(Signature of Plaintiff or Plaintiff's Attorney)

JACQUELYN BURRELL

FILED 6-26-19

GARY L. HARRISON
CLERK, SUPERIOR COURT

ARIZONA SUPERIOR COURT, PIMA COUNTY

19 JUN 26 AM 11:14
Case Number:

C20193114

Lola Wilkerson

Name of Petitioner/Plaintiff

Barbara Lawall, Victoria Otto

Chris Mahan

Name of Respondent/Defendant

THE COURT FINDS that the applicant (print name)

Lola Wilkerson

1. [] IS NOT ELIGIBLE FOR A DEFERRAL of fees and costs.

OR

2. [] IS ELIGIBLE FOR A DEFERRAL of fees and costs based on financial eligibility. As required by state law, the applicant has signed a consent to entry of judgment.

OR

3. IS ELIGIBLE FOR A DEFERRAL of fees and costs at the court's discretion (A.R.S. § 12-302(L)).

OR

4. [] IS ELIGIBLE FOR A DEFERRAL of fees and costs based on good cause shown. As required by state law, the applicant has signed a consent to entry of judgment.

OR

5. [] IS ELIGIBLE FOR A WAIVER of fees and costs because the applicant is permanently unable to pay.

OR

6. [] IS ELIGIBLE FOR A WAIVER of fees and costs at the court's discretion (A.R.S. § 12-302(L)).

OR

7. [] IS NOT ELIGIBLE FOR A WAIVER of fees and costs.

IT IS ORDERED:

[] DEFERRAL IS DENIED for the following reason(s):

[] The application is incomplete because _____

You are encouraged to submit a complete application.

[] The applicant does not meet the financial criteria for deferral because _____

A deferral **MUST BE** granted if the applicant is receiving public assistance benefits from the Temporary Assistance to Needy Families (TANF) program or Food Stamps; has an income that is insufficient or barely sufficient to meet the daily essentials of life and that includes no allotment that could be budgeted to pay the fees and costs necessary to gain access to the court; or, if the applicant demonstrates other good cause.

 DEFERRAL IS GRANTED for the following fees and costs in this court:

Any or all filing fees; fees for the issuance of either a summons and subpoena; or fees for obtaining one certified copy of a temporary order in a domestic relations case or a final order, judgment or decree in all civil proceedings and the cost of attendance at an educational program required by A.R.S. §25-352.

Fees for service of process by a sheriff, marshal, constable or law enforcement agency.

Fees for service by publication.

Filing fees and photocopy fees for the preparation of the record on appeal.

Court reporter or transcriber fees if employed by the court for the preparation of the transcript.

IF A DEFERRAL IS GRANTED, PLEASE CHECK ONE OF THE FOLLOWING BOXES:

 NO PAYMENTS WILL BE DUE UNTIL FURTHER NOTICE.

SCHEDULE OF PAYMENTS.

The applicant shall pay \$ _____ each _____ (week, month etc.), one half to the clerk's office and one half to the Sheriff's Department until paid in full, beginning _____

 WAIVER IS DENIED for all fees and costs in this case. **WAIVER IS GRANTED** for all fees and costs in this case that may be waived under A.R.S. § 12-302(H).

- Any or all filing fees; fees for the issuance of either a summons or subpoena; or fees for obtaining one certified copy of a temporary order in a domestic relations case or a final order, judgment or decree in all civil proceedings and the cost of attendance at an educational program required by A.R.S. §25-352.
- Fees for service of process by a sheriff, marshal, constable or law enforcement agency.
- Fees for service by publication.
- Filing fees and photocopy fees for the preparation of the record on appeal.
- Court reporter or transcriber fees if employed by the court for the preparation of the transcript.

RIGHT TO JUDICIAL REVIEW. If the application is denied or a payment schedule is set by a special commissioner, you may request the decision be reviewed by a judicial officer. The request must be made within twenty (20) days of the day the order was mailed or delivered to you. If a schedule of payments has been established, payments shall be suspended until a decision is made after judicial review. Judicial review shall be held as soon as reasonably possible.

NOTICE REGARDING CONSENT JUDGMENT. Unless any of the following applies, a consent judgment may be entered against the applicant for all fees and costs that are deferred and remain unpaid thirty (30) days after entry of final judgment:

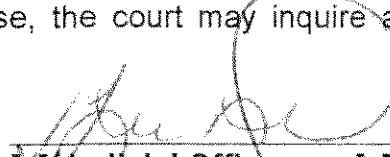
- A. Fees and costs are taxed to another party;
- B. The applicant has an established schedule of payments in effect and is current with those payments;
- C. The applicant filed a supplemental application for waiver or further deferral of fees and costs and a decision by the court is pending;
- D. In response to a supplemental application, the court orders that the fees and costs be waived or further deferred; or
- E. Within twenty (20) days of the date the court denies the supplemental application, the applicant either:
 - 1. Pays the fees and costs; or,
 - 2. Requests a hearing on the court's order denying further deferral or waiver. If the applicant requests a hearing, the court cannot enter the consent judgment unless a hearing is held, further deferral or waiver is denied, and payment has not been made within the time prescribed by the court.

If an appeal is taken, a consent judgment for deferred fees and costs that remain unpaid in the lower court shall not be entered until thirty (30) days after the appeals process is concluded. The procedures for notice of court fees and costs and for entry of a consent judgment continue to apply.

If a consent judgment is signed and the applicant pays the fees and costs in full, the court is required to comply with the provisions of A.R.S. § 33-964(C).

DUTY TO REPORT CHANGE IN FINANCIAL CIRCUMSTANCES. An applicant who is granted a deferral or waiver shall promptly notify the court of any change in financial circumstances during the pendency of the case that would affect the applicant's ability to pay court fees and costs. Any time the applicant appears before the court on this case, the court may inquire as to the applicant's financial circumstances.

DATED: 6/24/19



Judicial Officer Special Commissioner

FILED
GARY L. HARRISON
CLERK, SUPERIOR COURT
6-26-19
19 JUN 26 AMI: 16

NAME: Lola Wilkerson
ADDRESS: 4108 E. LESTER ST
Tucson, AZ. 85712
TELEPHONE: (520) 365-7967
REPRESENTING: Lola Wilkerson

JACQUELYN BURRELL
BY John W. McT

ARIZONA SUPERIOR COURT, PIMA COUNTY

Lola Wilkerson
Plaintiff,
v. Barbara Lowell,
Victoria Otto,
Chris mangis
Defendant.

CASE NO: C20193114

RULE 102(a) FASTAR CERTIFICATE

D. Douglas Metcalf

The undersigned certifies that he or she knows the eligibility criteria set by FASTAR Rule 101(b) and certifies that this case:

(NOTE – YOU MUST CHECK ONE OF THE BOXES BELOW OR THE CLERK WILL NOT ACCEPT THIS FORM.)

DOES meet the eligibility criteria established by Rule 101(b); or

DOES NOT meet the eligibility criteria established by Rule 101(b).

Dated: 6/26/19

Lola Wilkerson
SIGNATURE

In the Superior Court of the State of Arizona
In and For the County of Pima

Case Number C20193114

CIVIL COVER SHEET- NEW FILING ONLY
(Please Type or Print)

Plaintiff's Attorney Self - Lola Wilkerson

Attorney Bar Number _____

Plaintiff's Name(s): (List all)

Lola Wilkerson

Plaintiff's Address:

4608 E. Lester St.
Tucson, AZ 85712

(List additional plaintiffs on page two and/or attach a separate sheet)

Defendant's Name(s): (List All) Barbara Lawall, Chas Mangus,
Victoria Otto.

(List additional defendants on page two and/or attach a separate sheet)

RULE 26.2 DISCOVERY TIER OR MONETARY RELIEF CLAIMED:

IMPORTANT: Any case category that has an asterisk (*) MUST have a dollar amount claimed or Tier selected. State the monetary amount in controversy or place an "X" next to the discovery tier to which the pleadings allege the case would belong under Rule 26.2.

Amount Claimed \$ _____ Tier 1 Tier 2 Tier 3

NATURE OF ACTION

Place an "X" next to the one case category that most accurately describes your primary case. Any case category that has an asterisk (*) MUST have a dollar amount claimed or Tier selected as indicated above.

TORT MOTOR VEHICLE:

- Non-Death/Personal Injury*
- Property Damage*
- Wrongful Death*

Malpractice – Other professional*

Premises Liability*

Slander/Libel/Defamation*

Other (Specify) _____ *

TORT NON-MOTOR VEHICLE:

- Negligence*
- Product Liability – Asbestos*
- Product Liability – Tobacco*
- Product Liability – Toxic/Other*
- Intentional Tort*
- Property Damage*
- Legal Malpractice*

MEDICAL MALPRACTICE:

- Physician M.D.* Hospital*
- Physician D.O.* Other*

CONTRACTS:

- Account (Open or Stated)*
- Promissory Note*
- Foreclosure*

Buyer-Plaintiff*
 Fraud*
 Other Contract (e.g., Breach of Contract)*
 Excess Proceeds – Sale*
 Construction Defects (Residential/Commercial)*
 Six to Nineteen Structures*
 Twenty or More Structures*
 Credit Card Debt (Maricopa County Filings Only)*

OTHER CIVIL CASE TYPES:

Eminent Domain/Condemnation*
 Eviction Actions (Forcible and Special Detainers)*
 Change of Name
 Transcript of Judgment
 Foreign Judgment
 Quiet Title*
 Forfeiture*
 Election Challenge
 NCC – Employer Sanction Action (A.R.S. §23-212)
 Injunction against Workplace Harassment
 Injunction against Harassment
 Civil Penalty
 Water Rights (Not General Stream Adjudication)*
 Real Property*
 Special Action against Lower Courts
 (See lower court appeal cover sheet in Maricopa)
 Immigration Enforcement Challenge (A.R.S. §§1501, 1-502, 11-1051)

UNCLASSIFIED CIVIL:

Administrative Review
 (See lower court appeal cover sheet in Maricopa)
 Tax Appeal
 (All other tax matters must be filed in the AZ Tax Court)
 Declaratory Judgment
 Habeas Corpus
 Landlord Tenant Dispute – Other*
 Declaration of Factual Innocence (A.R.S. §12-771)
 Declaration of Factual Improper Party Status
 Vulnerable Adult (A.R.S. §46-451)*
 Tribal Judgment
 Structured Settlement (A.R.S. §12-2901)
 Attorney Conservatorships (State Bar)
 Unauthorized Practice of Law (State Bar)
 Out-of-State Deposition for Foreign Jurisdiction
 Secure Attendance of Prisoner
 Assurance of Discontinuance
 In-State Deposition for Foreign Jurisdiction
 Eminent Domain – Light Rail Only*
 Interpleader – Automobile Only*
 Delayed Birth Certificate (A.R.S. §36-333.03)
 Employment Dispute – Discrimination*
 Employment Dispute – Other*
 Verified Rule 45.2 Petition
 Other (Specify) *fraudulent use of
governmental resources &
violations of constitutional rights*

EMERGENCY ORDER SOUGHT:

Temporary Restraining Order
 Employer Sanction

Provisional Remedy
 Other (Specify) _____

OSC

Election Challenge

COMMERCIAL COURT (Maricopa County Only)

This case is eligible for the commercial court under Rule 81, and plaintiff requests assignment of this case to the commercial court. More information on the commercial court, including the most recent forms, are available on the court's website at <https://www.superiorcourt.maricopa.gov/commercialcourt/>.

Additional Plaintiff(s)

Additional Defendant(s)

ARIZONA SUPERIOR COURT, PIMA COUNTY

JACQUELYN BURRELL
 GARY L. HARRISON
 CLERK, SUPERIOR COURT
 6-26-19
 19 JUN 26 AM 11:13

Name of Person Filing Document:

Your Address:

Your City, State, and Zip Code:

Your Telephone Number:

Attorney Bar Number (if applicable):

Attorney E-mail Address:

Representing Self (Without an Attorney) OR Attorney for Petitioner Respondent

STATE OF ARIZONA)
 COUNTY OF PIMA) ss.

Lola Wilkerson
 Name of Petitioner/Plaintiff

Barbara Lawall, Victoria Otto

Chris Mangus
 Name of Respondent/Defendant

BY Garrison
 DEPUTY

Case Number: C20193114APPLICATION FOR DEFERRAL OR WAIVER
 OF COURT FEES OR COSTS AND CONSENT
 TO ENTRY OF JUDGMENT

C

Notice. A Fee Deferral is only a temporary postponement of the payment of the fees due. You may be required to make payments depending on your income. A Fee Waiver is usually permanent unless your financial circumstances change during the pendency of this court action.

I am requesting a deferral or waiver of all fees including: filing a case, issuance of a summons or subpoena, one certified copy of a temporary order in a family law case, one certified copy of the court's final order, preparation of the record on appeal, court reporter's fees of reporters or transcribers, service of process costs, and/or service by publication costs. (I have completed the separate Affidavit in Support of Application for Deferral or Waiver of Service of Process Fees form if I am asking for service of process costs, or service by publication costs), and the costs of attendance at an educational program required by A.R.S. §25-352. I understand that if I request deferral or waiver because I am a participant in a government assistance program, I am required to provide proof at the time of filing. The document(s) submitted must show my name as the recipient of the benefit and the name of the agency awarding the benefit. **Note. All other applicants must complete the financial questionnaire beginning at section 3. If you are a participant in one of the programs in section 1 or 2 (below), you do not need to complete the financial questionnaire, and can proceed to the signature page.**

1. **[] DEFERRAL:** I receive government assistance from the state or federal program marked below or am represented by a not for profit legal aid program:

- Temporary Assistance to Needy Families (TANF)
- Food Stamps
- Legal Aid Services

2. **[] WAIVER:** I receive government assistance from the federal program marked below or am represented by a not for profit legal aid program.

- Assistance from the federal Supplemental Security Income (SSI) program
- Legal Aid Services

3. FINANCIAL QUESTIONNAIRE

SUPPORT RESPONSIBILITIES. List all persons you support (including those you pay child support and/or spousal maintenance/support for)

NAME
LoLo Wilkerson

RELATIONSHIP
Self

STATEMENT OF INCOME AND EXPENSES

Employer name _____

Employer phone number _____

I am unemployed (explain). I have been unable to work since 8/23/18, due to mental health issues

My prior year's gross income: \$ 1,000

MONTHLY INCOME

My total monthly gross income. \$ 0

My spouse's monthly gross income (if available to me): \$ 0

Other current monthly income, including spousal maintenance/support, retirement, rental, interest, pensions, and lottery winnings. \$ 0

TOTAL MONTHLY INCOME \$ 0

MONTHLY EXPENSES AND DEBTS: My monthly expenses and debts are

	PAYMENT AMOUNT	LOAN BALANCE
Rent/Mortgage payment	\$ <u>350.00</u>	\$ _____
Car payment	\$ _____	\$ _____
Credit card payments	\$ _____	\$ _____
Explain Other payments & debts	\$ _____	\$ _____
Household	\$ <u>300.00</u>	\$ _____
Utilities/Telephone/Cable	\$ <u>150.00</u>	\$ _____
Medical/Dental/Drugs	\$ _____	\$ _____
Health insurance	\$ _____	\$ _____
Nursing care	\$ _____	\$ _____
Tuition	\$ _____	\$ _____
Child support	\$ _____	\$ _____
Child care	\$ _____	\$ _____
Spousal maintenance	\$ _____	\$ _____
Car insurance	\$ _____	\$ _____
Transportation	\$ _____	\$ _____
Other expenses (explain)	\$ _____	\$ _____
TOTAL MONTHLY EXPENSES	\$ <u>750.00</u>	\$ _____

STATEMENT OF ASSETS: List only those assets available to you and accessible without financial penalty

	ESTIMATED VALUE
Cash and bank accounts	\$ <u>0</u>
Credit union accounts	\$ <u>0</u>
Other liquid assets	\$ <u>0</u>
TOTAL ASSETS	\$ <u>0</u>

The basis for the request is:

4. DEFERRAL:

A. My income is insufficient or is barely sufficient to meet the daily essentials of life, and includes no allotment that could be budgeted for the fees and costs that are required to gain access to the court. My gross income as computed on a monthly basis is 150% or less of the current federal poverty level. (Note: Gross monthly income includes your share of community property income if available to you.)

OR

B. I do not have the money to pay court filing fees and/or costs now. I can pay the filing fees and/or costs at a later date. **Explain.**

OR

C. My income is greater than 150% of the poverty level, but have proof of extraordinary expenses (including medical expenses and costs of care for elderly or disabled family members) or other expenses that reduce my gross monthly income to 150% or below the poverty level.

DESCRIPTION OF EXPENSES	AMOUNT
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL EXTRAORDINARY EXPENSES	\$ _____

5. WAIVER:

I am permanently unable to pay. My income and liquid assets are insufficient or barely sufficient to meet the daily essentials of life and are unlikely to change in the foreseeable future.

IMPORTANT

This "Application for Deferral or Waiver of Court Fees or Costs" includes a "Consent to Entry of Judgment." By signing this Consent, you agree a judgment may be entered against you for all fees and costs that are deferred but remain unpaid thirty (30) calendar days after entry of final judgment. At the conclusion of the case you will receive a *Notice of Court Fees and Costs Due* indicating how much is owed and what steps you must take to avoid a judgment against you if you are still participating in a qualifying program. You may be ordered to repay any amounts that were waived if the court finds you were not eligible for the fee deferral or waiver. If your case is dismissed for any reason, the fees and costs are still due.

CONSENT TO ENTRY OF JUDGMENT. By signing this Application, I agree that a judgment may be entered against me for all fees or costs that are deferred but remain unpaid thirty (30) calendar days after entry of final judgment.

OATH OR AFFIRMATION

I declare under penalty of perjury that the foregoing is true and correct:

JUN 19 2019

Date

Kola Wilkerson

Signature

Kola Wilkerson

Applicant's Printed Name

JUN 19 2019

Date

GARY L HARRISON

Judicial Officer, Deputy Clerk or Notary Public

My Commission Expires/Seal:

BRIDGET MANNING



Receipt Number: 3117614

Received for: LOLA WILKERSON

Date: 6/26/2019

Received from: LOLA WILKERSON

Case Number: C20193114

Amount Received: \$0.00

Clerk Number: 100.527

Caption: LOLA WILKERSON VS. BARBARA LAWALL ET AL.

Cash: \$0.00

Check: \$0.00

Charge: \$0.00

ACH: \$0.00

Begin Financial Docket



Application for Deferral/Waiver

\$30.00 DEFERRED



Civil Complaint

\$258.00 DEFERRED

End Financial Docket

Change Returned: \$0.00

Amount Refunded: \$0.00

Case No. C20193114
 HON. D. DOUGLAS METCALF

1 **BARBARA LAWALL**
 2 **PIMA COUNTY ATTORNEY**
 3 **CIVIL DIVISION**
 4 Laura Roubicek, SBN 022671
 5 Deputy County Attorney
 6 32 North Stone Avenue, Suite 2100
 Tucson, Arizona 85701
 Telephone: 520-724-5700
 Laura.Roubicek@pcao.pima.gov
Attorney for Defendants Barbara LaWall and Victoria Otto

7 **ARIZONA SUPERIOR COURT**

8 **PIMA COUNTY**

9
 10 Lola Wilkerson,
 11 Plaintiff,
 12 vs.
 13
 14 Barbara LaWall, et al,
 15 Defendants.

No. C20193114

**MOTION FOR MORE DEFINITE
 STATEMENT UNDER RULE 12(e)
 and MOTION TO EXTEND
 DEADLINE FOR ANSWER**

(The Honorable D. Douglas Metcalf)

16
 17 Defendants Barbara LaWall and Victoria Otto (the PCAO Defendants) request that
 18 this Court order Plaintiff, Lola Wilkerson, to provide a more definitive statement of the
 19 claims alleged, as well as the specific facts giving rise to them as required by Ariz. R.
 20 Civ. Proc., Rules 8 and 12. While the PCAO Defendants are generally aware of the
 21 circumstances referenced by Plaintiff in her Complaint, as currently drafted, the PCAO
 22 Defendants are unable to meaningfully respond to the Complaint. Given that Plaintiff
 23 levies the serious accusation that her constitutional rights were violated, the PCAO
 24 Defendants should be fully advised of what specific acts, omissions, policies, and/or laws
 25 are at issue in order to provide an appropriate response.
 26

BARBARA LAWALL
 CIVIL DIVISION

The PCAO Defendants also request that the deadline for any Answer or other response be extended to 20 days after Plaintiff provides a more definite statement of her allegations. Finally, in the event Plaintiff fails to provide the details requested herein, the PCAO Defendants request that her Complaint be dismissed against them for failure to comply with the applicable rules.

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF RELEVANT FACTS¹

On October 10, 2019, the Pima County Attorney's Office screened Tucson Police Department case number 1809070332 for prosecution. Plaintiff Lola Wilkerson was listed as the alleged victim in that case. The matter was declined for prosecution.²

On June 26, 2019, Plaintiff filed a Civil Complaint naming Pima County Attorney Barbara LaWall and Deputy Pima County Attorney Victoria Otto, as well as Chris Magnus³ as defendants. Plaintiff captioned the Complaint, “fraudulent use of government resources and violation of constitutional rights.”

Under the section titled “Statement of Facts and Breach,” Plaintiff wrote:

5. Barbara LaWall and Victoria Otto as prosecutors for Pima County applied statute 13-107, as applied in 1993 to case #: 1809070332 on Oct. 10th 2018, the statute cannot be substantiated [sic] by the state

¹ The facts provided are those gleaned from Plaintiff's Complaint combined with the PCAO Defendants' general awareness of the incident Plaintiff appears to reference. Any incorrect assumptions underlying this Statement of Facts will be corrected upon receipt of a more definitive statement of the facts and allegations giving rise to Plaintiff's claim(s).

² It appears that Plaintiff's reference to statute 13-107 is A.R.S. § 13-107, which governs the statute of limitations for criminal offenses.

³ Plaintiff actually lists Chris Magnus as the third Defendant, however, it is believed from context that she intends this to be Tucson Police Department Chief Chris Magnus.

1 according to Professional Standards Complaint # 17-0203 on May
 2 13⁴, 2019;

3

4 6. The fraudulent use of power or authority that violates the 14th
 5 Amendment, “nor deny equal protection under the law,” section 1;

6 7. Barbara LaWall, Victoria Otto, Chris Magnus violated Lola
 7 Wilkerson’s 14th Amendment Right section 1 (Rev. 1992).

8 Under the heading “Applicable Law Supporting Claims,” Plaintiff wrote:

9

10 (1) By the state applying 13-107, they legally obligated to substanciate [sic]
 11 statute and are not able to do so.

12 (2) Violations of 14th amendment, section 1 Rev. 1992.

13 Plaintiff then listed several alleged injuries, most of which were mental and
 14 emotional, as well as homelessness and the inability to work. While Plaintiff did not
 15 include a specific dollar amount in her Complaint, she did request the costs of treatment
 16 and legal fees, and asked that “the statute of limitations be removed, tort law applied to
 17 reflect the fact that I only found out it was a crime in 2018.” Because it is unclear exactly
 18 what claims Plaintiff is making against the PCAO Defendants or what facts allegedly
 19 support those claims, the PCAO Defendants cannot fully defend this action without
 20 clarification of Plaintiff’s Complaint.

21 **II. LEGAL ARGUMENT**

22 In addition to a short jurisdictional statement, Ariz. R. Civ. Proc., Rule 8(a)
 23 requires that claims for relief must contain “a short and plain statement of the claim
 24 showing that the pleader is entitled to relief.” Rule 8(a)(2). “Each allegation of a
 25 pleading must be simple, concise, and direct. No technical form is required.” Rule
 26 8(e)(1). “The purpose of [Rule 8] is to avoid technicalities and give the opponent fair

⁴ The second digit of the date has been written over and it is unclear what date is listed.

1 notice of the nature and basis of the claim and indicate generally the type of litigation
2 involved.” *Mackey v. Spangler*, 81 Ariz. 113, 115 (1956).

3 When a pleading is insufficient, depending on the nature of the defect, a party may
4 either file a motion to dismiss for failure to state a claim under Rule 12(b)(6), or a motion
5 for more definitive statement under Rule 12(e). “Motions to dismiss for failure to state a
6 claim are not favored and should not be granted unless it appears that the plaintiff should
7 be denied relief as a matter of law given the facts alleged.” *Logan v. Forever Living
Prod. Int'l, Inc.*, 203 Ariz. 191, 193 (2002). By contrast, Rule 12(e) should be employed
9 when the party accused does not fully understand the nature or substance of the claims
10 against it. *See Markel v. Transamerica Title Ins. Co.*, 103 Ariz. 353, 357 (1968),
11 overruled on other grounds by *Burch & Cracchiolo, P.A., v. Pugliani*, 144 Ariz. 281
12 (1985)(“If defendants had any doubts of what was meant by the allegations of the second
13 amended complaint, they could have moved for a more specific statement”); *see also*
14 *Jones v. Stanley*, 27 Ariz. 381, 384 (1925)(even before adoption of the Rules of Civil
15 Procedure, any uncertainty about a claim should be raised by “motion to make more
16 definite and certain”).

17 In this case, Plaintiff has alleged that the PCAO Defendants violated her rights
18 under the 14th Amendment and have engaged in fraudulent use of government resources.
19 Arizona does not recognize a tort action for fraudulent use of government resources and
20 Plaintiff does not provide any further details to support her claim. As such, it is unclear if
21 Plaintiff is accusing the PCAO Defendants of the more general tort of fraud or something
22 else entirely.

23 Similarly, while Defendant makes reference to section 1 of the 14th Amendment
24 and uses the phrase “equal protection” under the heading “Statement of Facts and
25 Breach,” she provides no details to explain how the PCAO Defendants violated her equal
26 protection rights. Further, given her general reference to “violations of the 14th

1 Amendment, section 1" under the heading "Applicable Law Supporting Claims," it is
2 unclear if she means to incorporate her equal protection claim as stated earlier in the
3 Complaint or if she intends to levy a broader claim.

4 Finally, Plaintiff makes repeated reference to the requirement that the PCAO
5 Defendants were required to "substantiate" statute 13-107 before applying it. The PCAO
6 Defendants do not understand what Plaintiff means when she claims that a prosecutor
7 must substantiate a statute. The PCAO Defendants are also unclear as to what document
8 or policy "Professional Standards Complaint # 17 -0203" refers to, leaving them unable
9 to respond to any allegations connected to it.

10 In compliance with Rule 12(e)'s mandate that a motion for more definitive
11 statement must "point out the defect complained of and the details desired," the PCAO
12 Defendants request the Plaintiff be ordered to provide the following information:

- 13 1. The specific act(s) or omission(s) allegedly committed by Defendant Victoria Otto
14 on October 10, 2018;
- 15 2. The specific act(s) or omission(s) allegedly committed by Defendant Barbara
16 LaWall on October 10, 2018;
- 17 3. Any alleged violations of Arizona state tort law, including:
 - 18 a. What is intended by use of the phrase "fraudulent use of government
19 resources";
 - 20 b. What is intended by reference to the requirement that the State must
21 "substantiate" a statute; and,
 - 22 c. What is Professional Standards Complaint # 17- 0203;
- 23 4. How the actions or omissions of Defendant Victoria Otto gave rise to any alleged
24 violations of Arizona state tort law;
- 25 5. How the actions or omissions of Defendants Barbara LaWall gave rise to any
26 alleged violations of Arizona state tort law;

BARBARA LAWALL
PIMA COUNTY ATTORNEY
CIVIL DIVISION

6. Any alleged violations of Federal or Constitutional law, including specific references to which clause of the 14th Amendment is alleged to have been violated;
7. How the actions or omissions of Defendant Victoria Otto gave rise to any alleged violations of federal or Constitutional law; and,
8. How the actions or omissions of Defendants Barbara LaWall gave rise to any alleged violations of federal or Constitutional law.

Without this additional information, the PCAO Defendants cannot fully respond to Plaintiff's allegations, nor can they properly evaluate what defenses and immunities may apply. Consequently, the PCAO Defendants are severely prejudiced in their ability to defend this action as it currently stands and the Court should order Plaintiff to provide the requested information before an Answer or other response is required.

III. CONCLUSION

The PCAO Defendants ask this Court to order Plaintiff to supplement her Complaint and provide the details requested above. The PCAO Defendants also ask that their deadline for filing an Answer or other responsive motion(s) be extended to 20 days after the receipt of a legally sufficient complaint. Should Plaintiff fail to provide a sufficient complaint within 10 days after the Court so orders, then the PCAO Defendants request that Plaintiff's Complaint be ordered stricken in accordance with Rule 12(e).

RESPECTFULLY SUBMITTED July 2, 2019.

BARBARA LAWALL
PIMA COUNTY ATTORNEY

By /s/ *Laura Roubicek*
Laura Roubicek
Deputy County Attorney

CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2019, I electronically transmitted the attached document to the Clerk's Office using the TurboCourt System for filing and electronic service to the following TurboCourt registrants:

Additionally, a copy of the foregoing has been mailed on July 2, 2019, to:

Lola Wilkerson
4608 E. Lester St.
Tucson, AZ 85712
Pro Se Plaintiff

By: /s/ Bianca Paravano

BARBARA LAWALL
PIMA COUNTY ATTORNEY
CIVIL DIVISION



Case 4:19-cv-00360-CKJ Document 1-3 Filed 07/16/19 Page 24 of 51

Pima County Sheriff's Department

Civil Enforcement Unit

FILED
GARY L. HARRISON
CLERK OF COURT

Page: 1

19 JUL -3 PM 4:20

AFFIDAVIT AND RETURN

STATE OF ARIZONA]
COUNTY OF PIMA]
OFFICE OF THE SHERIFF]

Court Number: C20193114
Process Number: 19-002087

I do hereby certify that I received the within and foregoing Summons & Complaint on June 26 2019 and that I served the Defendant, VICTORIA ANNE OTTO by delivering copies of the aforementioned documents to the person(s) named therein as follows:

Served to: ANDREW FLAGG (OTHER)
Service Time/Date: 14:48:00 06/26/19
Served At: 30 block of N Stone Ave Tucson, AZ 85701

Comments:

I FURTHER CERTIFY THAT I SERVED ANDREW FLAGG AS THE AUTHORIZED AGENT OF THE PIMA COUNTY ATTORNEYS OFFICE WITH A CIVIL SUMMONS, A CIVIL COMPLAINT (FRAUDULENT USE OF GOVERNMENT RESOURCES AND VIOLATION OF CONSTITUTIONAL RIGHTS), A RULE 102(a) FASTAR CERTIFICATE AND A CIVIL COVER SHEET-NEW FILING ONLY.

Returned on June 27 2019

Mark D. Napier
Sheriff of Pima County

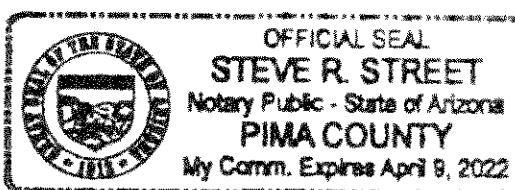
R. NECOECHA #1290; DEPUTY

BY: R. Necoecha #1290

Subscribed and sworn before me this 2nd day of July, 2019.

Steve R. Street
Notary Public

April 9, 2022
My Commission Expires



ARIZONA SUPERIOR COURT, PIMA COUNTY

Plaintiff, *Lola Wilkerson*

Defendant *Barbara Lawall,
Victoria Otto,
Chris Mangino*

NO. **C20193114**

CIVIL SUMMONS

THE STATE OF ARIZONA to the above-named Defendant

D. Douglas Metcalf

- I. A lawsuit has been filed against you.
- II. If you do not want a Judgment by default taken against you for the relief demanded in the accompanying Complaint, you must appear and defend by filing an Answer in writing in the Office of the Clerk of the Superior Court, 110 W. Congress, Tucson, Arizona, accompanied by the necessary filing fee. A copy of the Answer must also be mailed to the plaintiff/attorney whose name appears below.
- III. The Answer must be filed within TWENTY DAYS after service upon you, exclusive of the date of service, if served within the State of Arizona, or within THIRTY DAYS after service upon you, exclusive of the date of service, if served outside the State of Arizona.
- IV. This is a legal document. If you do not understand its consequences, you should seek the advice of an attorney.

WITNESS My Hand and the Seal of the Superior Court.

DATED:

CLERK OF THE SUPERIOR COURT

SEAL
GARY L. HARRISON

JACQUELYN BREWER, Clerk

ATTORNEY'S NAME, ADDRESS, PHONE

COMPUTER NO. _____

REQUEST FOR REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES MUST BE MADE TO THE COURT BY PARTIES AT LEAST THREE (3) WORKING DAYS IN ADVANCE OF A SCHEDULED COURT PROCEEDING

Case 4:19-cv-00360-OKJ Document 1-3 Filed 07/16/19 Page 26 of 51

Pima County Sheriff's Department
Civil Enforcement Unit



FILED
GARRISON

19 JUL -3 PM 4:20

Page: 1

AFFIDAVIT AND RETURN

STATE OF ARIZONA]
COUNTY OF PIMA]
OFFICE OF THE SHERIFF]

Court Number: C20193114
Process Number: 19-002088

I do hereby certify that I received the within and foregoing Summons & Complaint on June 26 2019 and that I served the Defendant, BARBARA ELLEN LAWALL by delivering copies of the aforementioned documents to the person(s) named therein as follows:

Served to: ANDREW FLAGG (OTHER)
Service Time/Date: 14:48:00 06/26/19
Served At: 30 Block of N Stone Ave Tucson, AZ 85701

Comments:

I FURTHER CERTIFY THAT I SERVED ANDREW FLAGG AS THE AUTHORIZED AGENT OF THE PIMA COUNTY ATTORNEYS OFFICE WITH A CIVIL SUMMONS, A CIVIL COMPLAINT (FRAUDULENT USE OF GOVERNMENT RESOURCES AND VIOLATION OF CONSTITUTIONAL RIGHTS), A RULE 102(a) FASTAR CERTIFICATE AND A CIVIL COVER SHEET-NEW FILING ONLY.

Returned on June 27 2019

Mark D. Napier
Sheriff of Pima County

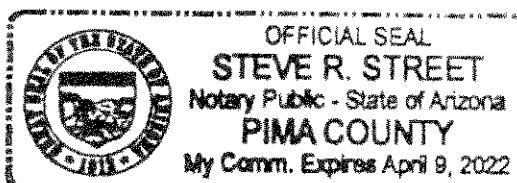
BY: Mark D. Napier 1290

R. NECOECHEA #1290; DEPUTY

Subscribed and sworn before me this 20th day of July, 2019.

Steve R. Street
Notary Public

April 9, 2022
My Commission Expires



ARIZONA SUPERIOR COURT, PIMA COUNTY

Plaintiff, *Kola Wilkerson*

NO. C20193114

Defendant. *Barbara LaWall,
Victoria Otto,
Chris Mangino*

CIVIL SUMMONS

THE STATE OF ARIZONA to the above-named Defendant

- I. A lawsuit has been filed against you.
- II. If you do not want a Judgment by default taken against you for the relief demanded in the accompanying Complaint, you must appear and defend by filing an Answer in writing in the Office of the Clerk of the Superior Court, 110 W. Congress, Tucson, Arizona, accompanied by the necessary filing fee. A copy of the Answer must also be mailed to the plaintiff/attorney whose name appears below.
- III. The Answer must be filed within TWENTY DAYS after service upon you, exclusive of the date of service, if served within the State of Arizona, or within THIRTY DAYS after service upon you, exclusive of the date of service, if served outside the State of Arizona.
- IV. This is a legal document. If you do not understand its consequences, you should seek the advice of an attorney.

WITNESS My Hand and the Seal of the Superior Court.

DATED: JUN 26 2019
CLERK OF THE SUPERIOR COURT

By *Gary L. Harrison* **GARY L. HARRISON**
Deputy Clerk

ATTORNEY'S NAME, ADDRESS, PHONE

Jacquelyn Burrell **JACQUELYN BURRELL**

COMPUTER NO. 1234567890

REQUEST FOR REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES MUST BE
MADE TO THE COURT BY PARTIES AT LEAST THREE (3) WORKING DAYS IN ADVANCE OF A
SCHEDULED COURT PROCEEDING

1 Name of Person Filing Lola Wilkerson
 2 Mailing Address 4608 E. 15TH ST
 3 City, State, Zip Code TUCSON, AZ 85712
 4 Daytime Telephone Number (520) 365-7967
 5 Representing Self Lola Wilkerson

FILED
 CLERK'S OFFICE
 7-9-19
 10 JUL -9 AM 11:14

BY Melissa Heilman
 MELISSA HEILMAN

ARIZONA SUPERIOR COURT, PIMA COUNTY

6 Plaintiff,
 7 Lola Wilkerson

) Case No. C20193114

8
 9 vs. Barbara Lawall et. al.,
 10 Victoria Otto, Chrio Mangus,
 11 et. al.

) Assigned to the Hon. D. Douglas McCall

Defendant

BEST CO.

16 Plaintiff's response to defendants request of
 17 a more definitive statement of breach, the
 18 explanation of the terms substantiate and
 19 fraudulent use of governmental resources, as to what
 20 Professional Standard report formerly labeled 17-023,
 21 and amended to 19-0203, due to clerical error
 22 in Professional Standards Department, and as to
 23 clarity on why each defendant is named both
 24 independently and collectively, and how each
 25 committed, omitted through activity or inactivity the
 26 fraudulent use of governmental resources, and
 27 violated plaintiff's 14th amendment rights.

1.) Barbara Lawall et. al. is named as defendant
 because she is the elected Pima County
 attorney, and as such she is completely

BEST COPY

responsible for all employees of the prosecuters office's conduct, misconduct, and is to ensure that legal standards are not violated as well as to seek justice and to protect the community of Pima County. Barbara Lawall is also responsible to oversee any instances of law enforcement misconduct as it pertains to cases brought forward and seeking prosecution within Pima County.

2.) The plaintiff, Lola Wilkeeson has named Chis Marquis as a defendant, because as Chief of Police for the city of Tucson he has a responsibility to the citizens of Tucson, as do all his law enforcement officers, to protect and serve the community, as well as to ensure that his officers do not engage in misconduct, or biased actions to Tucson's citizens and if such a breach occurs it is his ultimate responsibility to seek answers and rectify any damages he can.

3.) The plaintiff, Lola Wilkeeson, named Victoria Otto as a defendant because she was the prosecuter that authorized the investigation, being fully aware of the year the crime was committed, and it was she who contacted me on October 10th 2018 and informed me that she was applying Statute 13-107(b), as it was applied in 1993, to my case # 1809070332, this conversation was witnessed by Dallas Wilson, Special Investigator, Colleen Phelan, victim advocate who were in her office during the call, and as I was on speaker phone this call was also witnessed by Louis Poggi, my partner.

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Statute 13-107(b), as applied in 1993:

Except as otherwise provided in this section prosecutions for other offenses must be commenced within the following periods after actual discovery by the state or the political subdivision having jurisdiction of the offense or discovery by the state or such political subdivision which should have occurred with the exercise of reasonable diligence, which ever first occurred:

- 1.) For Class 2 through Class 6 felony, is seven years
- 2.) For misdemeanor is 1 year
- 3.) For petty offense, is 6 months

The initial officer in 1993 did not even question the plaintiff's assailant. The officers violated and traumatized the plaintiff and there is absolutely no evidence that he even filed any paperwork or report of plaintiff's rape.

However Statute 13-107(c), as applied in 1993: for the purpose of section B, a prosecution is commenced when an indictment, information or complaint is filed.

Not only is there no documentation of this case in 1993, but there is no documentation of it being destroyed, nor did the plaintiff, Lola Wilkerson ever receive notification of the report being destroyed.

Yet Victoria Otto stated repeatedly that she was "taking my word for it" yet the law clearly

Ad03 107-8

demands filed documentation and Pima County Attorney Victoria Otto fraudulently applied statute B-107(b)(4), as applied in 1993, not based on the merits of plaintiff's case, but to obtain a civil waiver in order to avoid a bona fide claim of improper law enforcement actions. As Victoria works for Pima County Attorney's office of whom Barbara LaWall et.al. is the elected official, both defendants have held the residue of their governmental employment fraudulently.

4.) Victoria Otto acknowledged on Oct. 10th, 2018 that the assailant broke the law, and that the police officer broke the law, and that the plaintiff, Lola Wilkerson, followed the law and still was being denied justice, and protection of the law, she acknowledged this with Dallas Wilson, Colleen Phelan, and Travis Poggi present beyond ourselves. It has been 9 months since this conversation, and still I have not received the written dismissal with the reasons why, nor have I received any documentation the law enforcement misconduct has been reported to her supervisor, or that they are looking into this.

5.) On October 25, 2018 Deputy Chief of Pima County Attorney's office Thomas Weaver, responded to press inquiry into my case, wrong information was provided to the press, by someone not involved with plaintiff's case, whom hadn't ever spoken to

BEST COPY

plaintiff, Lola Wilkerson, until after giving the press misinformation, causing the news story given to the public to be inaccurate and caused prejudicial understandings of plaintiff's case, in order to avoid public knowledge of Tucson Police department's misconduct against the plaintiff. This is another example of fraudulent use of governmental resources from Pima County Attorney's office in the plaintiff's criminal case.

6.) By Pima County Attorney Victoria Otto applying Statute 13-107(b)(c) fraudulently, the Pima County Attorney's office has violated plaintiff's 14th Amendment. By not going before a judge for tort review in light of the aforementioned police misconduct, Victoria Otto did not fulfill her primary function as an attorney for Pima County, which is to seek justice and protect the community from potential threat.

7.) Victoria Otto was aware that the plaintiff, Lola Wilkerson, and her assailant were not aware of the crimes committed against plaintiff until 2018, and she disregarded the misconduct she had already acknowledged in order to protect another government agency instead of the community. She is supposed to seek justice for this is fraudulent use of position and violation of plaintiff's 14th Amendment.

8.) Dallas Wilson, Special Investigator, his supervisor, Kyle Robinson, and the Superior Collin King, assistant chief of police Carla Johnson, Colleen Phelan, Travis Poggi, and the plaintiff, Lola Wilkerson all sat down to a meeting, where the plaintiff, Lola Wilkerson informed these Tucson Police Officers what a Tucson Police officer did to her between the last week of September and the first week of October in 1993 when she called for help after her then husband raped her in their apartment in front of her 11 month old infant.

Carla Johnson stated she was an sex crimes investigator during the time period, she stated sadly many women had been treated as she had, she asked if plaintiff remembered the Tucson Police Officers name, plaintiff was able to give basic description of the officer but does not know his name.

At the end of the meeting Carla Johnson apologized for what the Tucson Police officer did to plaintiff, also stated she believed plaintiff 100% that what plaintiff experienced at the treatment of that Tucson Police Officer, and did try to reassure plaintiff that sex crime victims are no longer abused by the Tucson Police Officers who respond to calls for help.

The plaintiff has never heard from anyone else from Tucson Police Department in regards to any investigation into misconduct, or

to notify the plaintiff that the information has been reported to anyone of higher authority for resolution or accountability.

Both Pima County Attorney's office and Tucson Police Department recognized the crime committed against plaintiff, apologize while pointing out it went them in 1993, and then choose to suppress evidence of wrong doing and refuse to follow the protocols for office misconduct. Plaintiff just keeps being told it was to long ago for them to be accountable, purposely and deliberately ignoring plaintiff did not know the officer not only lied to her, but committed a crime against her until 2018, and instead of performing their duty to seek justice, and to protect the victim of a crime they choose to continue to be delictual and oppress the plaintiff in hopes that she will become disengaged enough to not pursue a civil suit on her own against government agencies.

In part the evidence of this is the lack of evidence the State should have, and the evidence collected in 2018 by Dallas Wilson, Special Investigator and by Sergeant Peterson of Professional Standards in 2019.

As the only documented evidence has been available to both Pima County Attorney's Office and Tucson Police Department

for the last nine months, the plaintiff, Lela Wilkeeson does request that the Judge deny the extended time for response as a delaying tactic that is unnecessary and unjust.

Lela Wilkeeson
4608 E Lester St
Tucson, Az. 85712
(520) 365-9967

Copies of this response will be hand delivered by plaintiff to representatives at following addresses:

For Chris Marquis et. al.
To Rick Guerra (clerk) defendant
at: 200 BIK W. Alameda, Tucson, Az 85701
on July 9th 2019

For: Barbara LaWall et. al., and
Victoray Otto
To: Andrew Flagg (other)
et: 30 block of N. Stone Ave, Tucson
az. 85701
on July 9th 2019

Lela Wilkeeson
7/9/2019



Pima County Sheriff's Department
Civil Enforcement Unit

FILED
 GARY L HARRISON
 CLERK

Page: 1

19 JUL -9 PM 1:25

AFFIDAVIT AND RETURN

STATE OF ARIZONA]
 COUNTY OF PIMA]
 OFFICE OF THE SHERIFF DEPUTY

Court Number: C20193114
 Process Number: 19-002089

I do hereby certify that I received the within and foregoing Summons & Complaint on June 26 2019 and that I served the Defendant, CHRIS MAGNUS by delivering copies of the aforementioned documents to the person(s) named therein as follows:

Served to: Rick Guerra - clerk (DEFENDANT)
 Service Time/Date: 14:44:00 06/26/19
 Served At: 200 Blk W Alameda St Tucson, AZ 85701

Comments:

I FURTHER CERTIFY THAT I HAVE SERVED RICK GUERRA (CLERK) A CIVIL SUMMONS, A CIVIL COMPLAINT (FRAUDULENT USE OF GOVERNMENT RESOURCES AND VIOLATION OF CONSTITUTIONAL RIGHTS), A RULE 102(a) FASTAR CERTIFICATE AND A CIVIL COVER SHEET-NEW FILING ONLY.

Returned on July 2 2019

Mark D. Napier
 Sheriff of Pima County

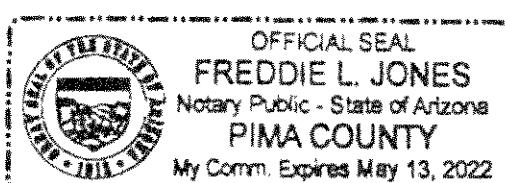
BY: B. Rutledge

B. RUTLEDGE #8699; PROCESS SERVER

Subscribed and sworn before me this 3 day of July, 2019.

Freddie L. Jones
 Notary Public

May 13, 2022
 My Commission Expires



ARIZONA SUPERIOR COURT, PIMA COUNTY

Plaintiff, *Lola Wilkerson*
Barbara Lawall,
Victoria Otto,
Defendant. *Chris Mangus*

NO. **C20193114**

CIVIL SUMMONS

THE STATE OF ARIZONA to the above-named Defendant

I. A lawsuit has been filed against you.

II. If you do not want a Judgment by default taken against you for the relief demanded in the accompanying Complaint, you must appear and defend by filing an Answer in writing in the Office of the Clerk of the Superior Court, 110 W. Congress, Tucson, Arizona, accompanied by the necessary filing fee. A copy of the Answer must also be mailed to the plaintiff/attorney whose name appears below.

III. The Answer must be filed within TWENTY DAYS after service upon you, exclusive of the date of service, if served within the State of Arizona, or within THIRTY DAYS after service upon you, exclusive of the date of service, if served outside the State of Arizona.

IV. This is a legal document. If you do not understand its consequences, you should seek the advice of an attorney.

WITNESS My Hand and the Seal of the Superior Court

DATED: 26/07/2019

CLERK OF THE SUPERIOR COURT

SEAL

GARY L. HARRISON

JACQUELYN BURKE, Clerk

ATTORNEY'S NAME, ADDRESS, PHONE

COMPUTER NO. _____

REQUEST FOR REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES MUST BE MADE TO THE COURT BY PARTIES AT LEAST THREE (3) WORKING DAYS IN ADVANCE OF A SCHEDULED COURT PROCEEDING

1 **BARBARA LAWALL**
 2 **PIMA COUNTY ATTORNEY**
 3 **CIVIL DIVISION**
 4 Laura L. Roubicek, SBN 022671
 5 Deputy County Attorney
 6 32 North Stone Avenue, Suite 2100
 Tucson, Arizona 85701
 Telephone: 520-724-5700
 Laura.Roubicek@pcao.pima.gov
Attorneys for Barbara LaWall and Victoria Otto

Case No. C20193114
 HON. D. DOUGLAS METCALF

8 **ARIZONA SUPERIOR COURT**
 9 **PIMA COUNTY**

10
 11 Lola Wilkerson,
 12 Plaintiff,
 13 vs.
 14 Barbara LaWall et al.,
 15 Defendants.

No. C20193114

AFFIDAVIT

(The Honorable D. Douglas Metcalf)

16
 17 STATE OF ARIZONA)
 18 County of Pima) ss.
 19

20 VICTORIA OTTO being duly sworn upon her oath deposes and says as follows:

21 1. I am an attorney licensed to practice law in the State of Arizona.
 22 2. I have been employed with the Criminal Division of the Pima County
 23 Attorney's Office as a Deputy County Attorney for almost fourteen years,
 24 spanning from May of 2005 to November of 2016, and June of 2017 to the
 25 present.

BARBARA LAWALL
 PIMA COUNTY ATTORNEY
 CIVIL DIVISION

1 3. On October 10, 2018, I was working as an issuing attorney in the Special
2 Victims Bureau of the Criminal Division.

3 4. In my role as a Deputy County Attorney in the Special Victim Bureau of the
4 Criminal Division, I represented the State of Arizona in criminal proceedings.

5 5. My duties as an issuing attorney included meeting with law enforcement,
6 reading police reports, and speaking to victims and witnesses in order to screen
7 cases for prosecution.

8 6. As part of my job, I am required to be familiar with A.R.S. § 13-107, which
9 governs the statute of limitations for criminal offenses, including sex crimes.

10 7. On October 10, 2018, Tucson Police Department Detective Dallas Wilson
11 presented Tucson Police Department case number 1809070332 for screening.

12 8. The case involved the alleged sexual assault of Lola Wilkerson by her husband
13 in 1993.

14 9. Per Ms. Wilkerson's statements to police, she had reported the assault to an
15 officer with the Tucson Police Department in 1993.

16 10. In a conversation with Detective Wilson, relayed to me during the course of
17 screening the case, Ms. Wilkerson reiterated that she had reported the alleged
18 sexual assault to police in 1993.

19 11. In the presence of Detective Wilson and other witnesses, I placed a call to Ms.
20 Wilkerson on October 10, 2018, to speak with her about the case.

21 12. During that call, Ms. Wilkerson confirmed that she had reported the sexual
22 assault to law enforcement in 1993 and had spoken in person with a Tucson
23 Police Department patrol officer. She could not recall the name of the officer
24 but remembered speaking with him.

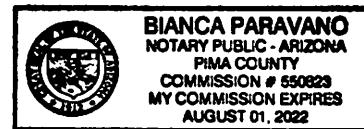
BARBARA LAWALL
PIMA COUNTY ATTORNEY
CIVIL DIVISION

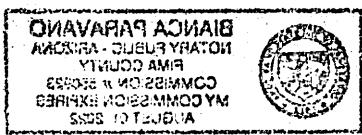
1 13. I advised Ms. Wilkerson that the applicable version of A.R.S. § 13-107 was
2 the one in effect in 1993 and that the case would be barred from prosecution
3 because the statute of limitations had run.
4 14. I formally declined the case for prosecution and the criminal case was closed
5 within the Pima County Attorney's Office.
6 15. I undertook all of these actions within the course and scope of my job as an
7 issuing attorney for the Special Victim Bureau of the Criminal Division of the
8 Pima County Attorney's Office.

9
10 Victoria Otto
11 Victoria Otto

12 SUBSCRIBED AND SWORN TO before me on July 12, 2019, by VICTORIA
13 OTTO.

14 Bianca Paravano
15 Notary Public





Case No. C20193114
 HON. D. DOUGLAS METCALF

1 **BARBARA LAWALL**
 2 **PIMA COUNTY ATTORNEY**
 3 **CIVIL DIVISION**
 4 Laura Roubicek, SBN 022671
 5 Deputy County Attorney
 6 32 North Stone Avenue, Suite 2100
 Tucson, Arizona 85701
 Telephone: 520-724-5700
 Laura.Roubicek@pcao.pima.gov
Attorney for Defendants Victoria Otto and Barbara LaWall

7 **ARIZONA SUPERIOR COURT**

8 **PIMA COUNTY**

9 Lola Wilkerson,
 10 Plaintiff,
 11 vs.
 12 Barbara LaWall, et al,
 13 Defendants.

14 No. C20193114

15 **MOTION TO DISMISS**

16 (The Honorable D. Douglas Metcalf)

17 Defendants Barbara LaWall and Victoria Otto ask this Court to dismiss this matter
 18 pursuant to Rule 12(b)(6), Ariz. R. Civ. P. because Plaintiff has failed to state a claim
 19 upon which relief can be granted as to either Defendant. All actions undertaken by
 20 Defendant Otto, and attributed to Defendant LaWall by way of her position as Defendant
 21 Otto's employer, were protected by prosecutorial immunity. This motion is supported by
 22 the following Memorandum of Points and Authorities.

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24 **I. STATEMENT OF RELEVANT FACTS**

25 On October 10, 2018, Victoria Otto, a Deputy County Attorney working for Pima
 26 County Attorney Barbara LaWall in the Criminal Division of the Pima County Attorney's

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1 Office, screened Tucson Police Department case number 1809070332 for prosecution. *Pl. Compl.2*¹ at p.2, ¶ 3; *Aff. of Victoria Otto* (“*Aff.*”) at ¶¶ 2, 3, 7. Plaintiff Lola Wilkerson
2 was the victim of an alleged sexual assault in case number 1809070332. *Pl. Compl.1* at
3 p.4, ¶1 and *Aff.* at ¶ 8. It was determined that Plaintiff had initially reported the alleged
4 sexual assault to the Tucson Police Department when it occurred in 1993. *Pl. Compl.2* at
5 p.3 and *Aff.* at ¶¶ 9, 10. During the issuing appointment on October 10, 2018, Defendant
6 Otto placed a call to Plaintiff and Plaintiff confirmed that she had spoken to an officer
7 from the Tucson Police Department when the alleged sexual assault had occurred in
8 1993. *Pl. Compl.2* at ¶ 3 and *Aff.* at ¶¶ 11, 12. Defendant Otto explained that prosecution
9 was barred because the statute of limitations in effect in 1993 only provided the State
10 with a seven year window for filing charges and the case was closed. *Pl. Compl.2* at ¶ 3
11 and *Aff.* at ¶¶ 13, 14.

12 On June 26, 2019, Plaintiff filed a Civil Complaint naming Pima County Attorney
13 Barbara LaWall and Deputy Pima County Attorney Victoria Otto, as well as Tucson
14 Police Department Chief Chris Magnus as defendants. Defendants LaWall and Otto filed
15 a motion seeking clarification of the allegations in the Complaint, and on July 9, 2019,
16 Plaintiff filed a response explaining the basis for her claims.² Because all of the actions
17 undertaken by Defendant Otto were within the course and scope of her role as a
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19

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21 ¹ For clarity, Plaintiff’s original Complaint, filed June 26, 2019, will be cited as
22 “Plaintiff’s Complaint 1” and the pleading filed on July 9, 2019, in response to
Defendants’ Motion for More Definite Statement under Rule 12(e) will be referred to as
“Plaintiff’s Complaint 2.”

23 ² Although Plaintiff’s Response (Pl. Compl.2) clarified many factual issues, it still fails to
24 articulate the specific legal grounds giving rise to her claims and instead makes general
reference to the 14th Amendment and again states that Defendants LaWall and Otto have
25 “used the resource [sic] of their government employment fraudulently.” *Pl. Compl.2* at
p.3-4, § 3. Given Plaintiff’s failure to clarify this issue, Defendants LaWall and Otto file
26 this Motion on the assumption that Plaintiff’s claims arise under 42 U.S.C. § 1983 and an
assertion that Arizona should recognize a tort action for the fraudulent use of government
resources.

1 prosecutor, she and Defendant LaWall are entitled to absolute immunity and the
2 allegations against them should be dismissed with prejudice.

3 **II. LEGAL ARGUMENT**

4 **A. Defendant Otto has absolute immunity for her actions in this case, so Plaintiff
5 cannot state a claim upon which relief can be granted and the matter should
6 be dismissed with prejudice as to Defendant Otto.**

7 It is well settled that prosecutors have absolute immunity for the exercise of
8 prosecutorial functions intimately associated with the judicial phase of the criminal
9 process, including the initiation of criminal charges and proceedings. *See Imbler v.
10 Pachtman*, 424 U.S. 409, 427 (1976); *Kalina v. Fletcher*, 522 U.S. 118, 128–129 (1997)
11 (prosecutors have absolute immunity for preparing and filing charging documents); *Burns
12 v. Reed*, 500 U.S. 478, 490 n.6 (1991) (prosecutors have absolute immunity from liability
13 “under § 1983 for their conduct before grand juries.”). This immunity extends to when
14 prosecutors “evaluat[e] . . . evidence assembled by the police,” *Buckley v. Fitzsimmons*,
15 509 U.S. 259, 273 (1993), and decide whether or not to seek charges. *Roe v. City and Cty.
16 of San Francisco*, 109 F.3d 578, 583 (9th Cir. 1997). In fact, as recognized by the United
17 States Supreme Court, “[t]he function of a prosecutor that most often invites a common-
18 law tort action is his decision to initiate a prosecution, as this may lead to a suit for
19 malicious prosecution if the State's case misfires.” *Imbler*, 424 U.S. at 421. The
20 importance of prosecutorial immunity is so great that “[p]rosecutors are absolutely
21 immune from liability for the consequences of their advocacy” even in situations where
22 their actions are “inept or malicious.” *Lacey v. Maricopa Cty.*, 693 F.3d 896, 913 (9th
23 Cir. 2012).

24 Following similar reasoning, Arizona courts also recognize a common-law
25 absolute immunity for prosecutorial functions. As the Arizona Court of Appeals
26 explained in *State v. Superior Court*, 186 Ariz. 294, 297 (App. 1996):

1 Prosecutors are generally immune from civil liability for
2 actions taken in their official capacities. This immunity is
3 absolute when the prosecutor acts within the scope of his or
4 her authority and in a quasi-judicial capacity. The prosecutor's
5 "scope of authority" includes those activities with some
6 connection to the general matters committed to the
7 prosecutor's control or supervision. "Quasi-judicial" activities
8 are those that are intimately associated with the judicial
9 process. But a prosecutor's conduct while acting as an
administrator or investigative officer is not "quasi-judicial"
and, therefore, does not enjoy absolute immunity.
Accordingly, a court must apply a "functional analysis" to
determine whether absolute immunity exists: it must examine
the nature of the prosecutor's activities. Furthermore, an
examining court must disregard the intent, motive, or state of
mind that the prosecutor had when performing the activity in
question.

10 (Internal citations omitted).

11 The decision whether or not to initiate a criminal prosecution is a quasi-judicial
12 activity for which prosecutors are absolutely immune. *See Challenge, Inc. v. State ex rel.*
13 *Corbin*, 138 Ariz. 200, 204 (App. 1983). "Absolute immunity also protects those
14 functions in which the prosecutor acts as an 'advocate for the State,' even if they 'involve
15 actions preliminary to the initiation of a prosecution and actions apart from the
16 courtroom.'" *Lacey*, 693 F.3d at 912 (9th Cir. 2012) (quoting *Burns*, 500 U.S. at 468).

17 Looking to Plaintiff's Complaint(s) and assuming the allegations contained therein
18 to be true (see *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419, ¶ 7 (2008)("[w]hen
19 adjudicating a Rule 12(b)(6) motion to dismiss, Arizona courts look only to the pleading
20 itself and consider the well-pled factual allegations contained therein. . . . [and] must also
21 assume the truth of the well-pled factual allegations and indulge all reasonable inferences
22 therefrom."), Plaintiff has failed to allege any actions by Defendant Otto that would fall
23 outside the scope of prosecutorial immunity.³

24

25 ³ Because of deficiencies in Pl. Compl.1 and Pl. Compl.2, Defendants have also provided
26 the Court with an affidavit from Defendant Otto. According to Rule 12(d), "[i]f, on a
motion under Rule 12(b)(6)...., matters outside the pleadings are presented to, and not

1 Plaintiff's claims center around Defendant Otto's decision not to file charges
2 related to an alleged sexual assault that occurred in 1993. *Pl. Compl.1; Pl. Compl.2*. A
3 prosecutor must follow the law in deciding whether to issue charges, including
4 consideration of the applicable statute of limitations. *See e.g. State v. Hughes*, 193 Ariz.
5 72, 80, ¶ 33 (1998) ("The prosecutor has an obligation to seek justice, not merely a
6 conviction, and must refrain from using improper methods to obtain a conviction."); *State*
7 *v. Escobar-Mendez*, 195 Ariz. 194, 197, ¶ 13 (App. 1999) ("Statutes of limitations in
8 criminal cases are jurisdictional. They limit the power of the sovereign to act against the
9 accused.").

10 In determining whether a criminal prosecution is barred by the statute of
11 limitations, a prosecutor must apply the statute that was in effect when the offenses were
12 committed. *Martin v. Superior Court*, 135 Ariz. 99, 100 (1983) (unless the legislature
13 states otherwise, statutes of limitations are prospective). This is also true for sexual
14 offenses. *Taylor v. Cruikshank*, 214 Ariz. 40, 42, ¶¶ 8–9 (2006) (although prosecutions
15 were initiated in 2006, the relevant statute of limitations was the one in effect at the time
16 of their commission).

17 A.R.S. §13-107, which governs the statute of limitations for criminal offenses, was
18 amended in 2001 to contain a provision that "[a] prosecution for... any offense that is
19 listed in chapter 14⁴... of this title and that is a class 2 felony... may be commenced at
20 any time." A.R.S. §13-107(A). However, the statute in effect at the time of Plaintiff's
21

22 excluded by, the court, the motion must be treated as one for summary judgment under
23 Rule 56." Summary judgment is appropriate "if the moving party shows that there is no
24 genuine dispute as to any material fact and the moving party is entitled to judgment as a
25 matter of law." Ariz. R. Civ. P. 56(a). It is unclear whether the Court will consider the
26 Affidavit of Defendant Otto, thereby converting this Motion to one for summary
judgment. Should the Court convert the motion, Defendants LaWall and Otto are still
entitled to dismissal for the reasons stated herein.

⁴ Sexual Offenses

1 alleged sexual assault in 1993 was not so expansive. At that time, the relevant portion of
2 A.R.S. §13-107 read:

3 Except as otherwise provided in this section, prosecutions for other
4 offenses [apart from homicide, misuse of public money, or falsification
5 of public records] must be commenced within the following periods after
6 actual discovery by the state or the political subdivision having
7 jurisdiction of the offense or discovery by the state or such political
8 subdivision which should have occurred with the exercise of reasonable
9 diligence, whichever first occurs:

10
11 1. For a class 2 through a class 6 felony, seven years.

12 A.R.S. §13-107(B)(1)(1985) (current version at A.R.S. §13-107(A) and (B)(1)(2017)).

13 Sexual assault, a class 2 felony criminalized in A.R.S. §13-1406, was not exempt
14 from the seven year statute of limitations in 1993. Because Plaintiff reported her alleged
15 sexual assault to law enforcement in 1993, including the nature of the crime and the
16 person who had committed it, the State had “discovered” the crime within the meaning of
17 A.R.S. §13-107, triggering the seven year statute of limitations. *See State v. Jackson*, 208
18 Ariz. 56, 65, ¶ 30 (App. 2004) (“[T]he seven-year limitation period under [A.R.S. §13-
19 107] begins ‘when the authorities know or should know in the exercise of reasonable
20 diligence that there is probable cause to believe a criminal [offense] has been
21 committed.’”). Therefore, by the time Defendant Otto reviewed the case, prosecution had
22 been barred for approximately 18 years.

23 It is clear from Plaintiff’s Complaint that she disagrees with Defendant Otto’s
24 analysis of the applicability of A.R.S. §13-107 to her alleged sexual assault. Even if her
25 analysis were legally flawed as Plaintiff believes, Defendant Otto’s actions are
26 nonetheless entitled to absolute immunity because they were undertaken within her quasi-
judicial role as a prosecutor deciding whether or not to file charges. Further, because

1 absolute prosecutorial immunity is recognized equally in federal and state causes of
2 action, Defendant Otto is immune from suit as to both the alleged 14th Amendment
3 violations and the postulated fraudulent use of government resources claim.
4 Consequently, Plaintiff cannot state a claim upon which relief can be granted and her
5 Complaint(s) should be dismissed with prejudice against Defendant Otto.⁵

6 **B. Defendant LaWall is also entitled to dismissal with prejudice.**

7 “The doctrine of respondeat superior generally holds an employer vicariously
8 liable for the negligent work-related actions of its employees.” *Tarron v. Bowen Mach. &*
9 *Fabricating, Inc.*, 225 Ariz. 147, 150, ¶ 9 (2010). However, for the employer to be
10 vicariously liable, the employee must be acting within the course and scope of his or her
11 employment when the alleged negligence occurs. *Engler v. Gulf Interstate Engineering,*
12 *Inc.*, 230 Ariz. 55, 57, ¶ 9 (2012). An employee is acting within the course and scope of
13 employment when he is subject to the employer’s control. *Id.* at ¶ 10.

14 An employee working for an elected official performing statutorily-mandated
15 duties is considered to be under the control of that official. *See e.g. Fridena v. Maricopa*
16 *County*, 18 Ariz. App. 527, 530–31 (1972) (Counties do not have a right of control over
17 Sheriffs or their deputies in the exercise of their statutory duties); *Yamamoto v. Santa*
18 *Cruz County Board of Supervisors*, 124 Ariz. 538, 540 (App. 1979) (Counties do not
19 have a right of control over the clerk of the Superior Court or her deputies in the exercise
20 of their statutory duties). According to A.R.S. § 11-532 (A)(4), “[t]he county attorney is
21 the public prosecutor of the county and shall. . . [d]raw indictments and informations. . .
22 .” Inherent in this duty is the necessity to first assess evidence and determine whether
23

24
25
26 ⁵ Dismissal with prejudice is appropriate when amending the complaint will not cure its
legal defects. *Wigglesworth v. Mauldin*, 195 Ariz. 432, 439–40, ¶¶ 27–28 (App. 1999).
There is no amendment that can overcome absolute prosecutorial immunity.

1 charges are appropriate. Therefore, it is theoretically possible that a county attorney
2 could be liable for a deputy county attorney's decision not to file charges in a criminal
3 case.

4 However, respondeat superior is subject to two very important limitations that
5 render it inapplicable in this case. First, to the extent Plaintiff alleges that her
6 constitutional rights were violated, her claim would properly fall under 42 U.S.C. § 1983.
7 Per the United States Supreme Court, “[g]overnment officials may not be held liable for
8 the unconstitutional conduct of their subordinates under a theory of *respondeat superior*.”
9 *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009). “Because vicarious liability is inapplicable
10 to . . . § 1983 suits, a plaintiff must plead that each Government-official defendant,
11 through the official's own individual actions, has violated the Constitution.” *Id.*

12 Second, to the extent Plaintiff's claims rest on the unrecognized state tort of
13 fraudulent use of government resources, respondeat superior is a doctrine of vicarious
14 liability. As such, “when the master's liability is based solely on the negligence of his
15 servant, a judgment in favor of the servant is a judgment in favor of the master.” *Ford v.*
16 *Revlon, Inc.*, 153 Ariz. 38, 42 (1987). It is only “where there is independent negligence
17 on the part of the master [that] the master may be liable, apart from his derivative liability
18 for his servant's wrongful acts.” *Id.*

19 In this case, Plaintiff's allegations against Defendant LaWall stem exclusively
20 from Defendant LaWall's role as Defendant Otto's employer. *Pl. Compl.* 2 at p.1–2, ¶ 1.
21 Absent separate and distinct allegations of misconduct against Defendant LaWall that
22 implicate actions taken outside the quasi-judicial function of evaluating a case for
23 potential criminal charges, there is no independent basis for liability against Defendant
24 LaWall. Stated plainly, Defendant LaWall's liability in this case hinges on that of
25 Defendant Otto and Defendant Otto's actions are immune from suit, so Defendant
26 LaWall is also immune. This being true, Plaintiff cannot state a claim upon which relief

1 can be granted as to Defendant LaWall and, per Rule 12(b)(6), Defendant LaWall is also
2 entitled to dismissal with prejudice.

3 **III. CONCLUSION**

4 Plaintiff has failed to state a claim upon which relief can be granted as to either
5 Defendant LaWall or Defendant Otto. Because no amendment will cure the defects in
6 Plaintiff's Complaint, this action should be dismissed with prejudice as to both
7 Defendants.

8
9 RESPECTFULLY SUBMITTED July 12, 2019.

10
11 BARBARA LAWALL
12 PIMA COUNTY ATTORNEY

13 By /s/ Laura Roubicek
14 Laura Roubicek
15 Deputy County Attorney

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BARBARA LAWALL
PIMA COUNTY ATTORNEY
CIVIL DIVISION

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2019, I electronically transmitted the attached document to the Clerk's Office using the TurboCourt System for filing and electronic service to the following TurboCourt registrants:

Additionally, a copy of the foregoing has been mailed on July 12, 2019, to:

Lola Wilkerson
4608 E. Lester St.
Tucson, AZ 85712
Pro Se

By: /s/ Bianca Paravano

BARBARA LAWALL
PIMA COUNTY ATTORNEY
CIVIL DIVISION